

July 25, 2012

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
12th Street Lobby, TW-A325
Washington, D.C. 20554

Re: *Ex Parte* Communication, WC Docket No. 11-59

Dear Ms. Dortch:

CTIA The Wireless Association® (“CTIA”) believes that the Federal Communications Commission’s efforts¹ to expedite broadband service can be the critical difference in determining whether rapid nationwide broadband deployment becomes a reality or remains an elusive goal. Recently, the President signed Executive Order 13616,² which provides a framework for a multi-agency effort to streamline the federal siting process. In recognition of the FCC’s expertise concerning the complex interplay between telecommunications regulation and expeditious tower siting, the Executive Order explicitly calls upon the FCC to advise the intra-agency working group. From its unique vantage point as the sole federal agency charged with licensing the provision of wireless services, the FCC has decades of experience dealing with the challenges involved in siting wireless facilities on both private and federal lands.

CTIA enthusiastically supports the FCC’s involvement in this multi-agency effort. To that end, CTIA is submitting these comments in the Commission’s *Acceleration of Broadband Infrastructure Deployment* docket to provide input, from the wireless industry’s perspective, about the hurdles encountered by infrastructure providers attempting to site their facilities on federal lands or buildings. CTIA welcomes this opportunity to support and assist the Commission in the exercise of its advisory responsibilities, because a streamlined and expeditious federal siting process is a prerequisite for accelerating broadband deployment. CTIA is not alone in this regard.

¹ See, e.g., *Acceleration of Broadband Deployment Notice of Inquiry*, 26 FCC Rcd 5384 (2011) (*Broadband NOI*); *Declaratory Ruling to Clarify Provisions of Section 332(c)(7)(B) to Ensure Timely Siting Review*, 24 FCC Rcd 13994 (2009), *recon.*, 25 FCC Rcd 11157 (2010), *pet. for review denied sub nom. City of Arlington v. FCC*, 668 F.3d 229 (5th Cir. 2012), *pets. for certiorari pending*.

² Executive Order 13616, “Accelerating Broadband Infrastructure Deployment,” 77 Fed. Reg. 36903 (June 14, 2012); *see also* Presidential Memorandum: *Unleashing the Wireless Broadband Revolution*, 75 Fed. Reg. 38387 (June 28, 2010).

Federal lands and buildings represent a significant but largely untapped resource for the build-out of broadband infrastructure at the very time when the President, Congress,³ and the FCC, are seeking to expedite broadband build-out. As the Commission has noted, “[c]ommunications technology and services — particularly broadband — are critical to our country’s economic success in the twenty-first century. Broadband can drive local and national economic growth, as well as improve education, healthcare, and energy efficiency.”⁴

Unfortunately, infrastructure providers that turn to private landowners for permission to site their facilities are hampered in their desire to meet the geometrically increasing demand for broadband services. Lengthy local zoning reviews, objections by local individuals or groups opposed to new facilities being located in their vicinity, a finite number of collocation opportunities, and the necessity of conducting both environmental and historic reviews for each site.

Although there have previously been federal initiatives to streamline the federal siting process,⁵ it must be transformed into a uniform and expeditious process in order to gain increased participation by infrastructure providers. While the reasons for this are varied, CTIA is concerned that, unless improvements are made to the federal siting process, infrastructure providers will continue to think of federal siting as a case of last, rather than first, resort. As CTIA pointed out in its comments on the *Broadband NOI*, carriers’ experience with the “elongated siting timeline” involved in obtaining antenna siting clearance from federal agencies has given carriers a “disincentive to use federal lands.”⁶ Thus, improvement of the federal siting process is imperative. It also is essential that the Commission and the intra-agency working group communicate any improvements in the federal siting process to both the public and infrastructure providers.

We are aware that the General Services Administration (“GSA”) and a host of other agencies, including the FCC, are currently engaged in a process designed to improve both the speed and cost of siting (or collocating) on federal lands, buildings, and structures. In this submission, CTIA provides comments that focus on the current challenges faced by private companies that wish to utilize federal lands, buildings, or structures as sites for new broadband infrastructure. It is our hope that this candid assessment will provide valuable input as the agencies begin their difficult task of improving the federal siting process and adopting a uniform lease agreement.

³ See, e.g., American Recovery and Reinvestment Act, Pub. L. 111-5 (2009) (Appropriation of \$7 billion for broadband buildout); Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. 107-198, § 6409 (2012) (establishing wireless access to infrastructure on federal land and buildings and expediting collocations).

⁴ *Id.* at ¶ 1.

⁵ See, e.g., NTIA, *Improving Rights-of-Way Management Across Federal Lands: A Roadmap for Greater Broadband Deployment* (Apr. 2004), http://www.ntia.doc.gov/reports/fedrow/frowreport_4-23-2004.pdf.

⁶ CTIA Comments at 24. All comments and reply comments cited were filed in response to the *Broadband NOI*, WC Docket No. 11-59.

CTIA applauds and supports the FCC's initiative to focus on these issues, as laid out in the *Broadband Acceleration NOI*, and we believe that CTIA's comments, as well as the comments of its members and others in the wireless industry, provide a wealth of information and specifics. These comments bring into focus a number of areas in which the federal siting process could be improved as well as concrete constructive suggestions which merit consideration. What follows below is a synthesis of those comments, as well as feedback that CTIA has recently received from its members:

- Lack of a Master Agreement Slows the Process Down:
 - Currently many agencies use their own unique forms, rather than standardized forms or templates, requiring additional negotiations and slowing down the siting process. While some agencies, such as the Bureau of Land Management ("BLM") and National Park Service ("NPS"), utilize the SF-299, they may not interpret the form's requirements uniformly throughout the agency. It is important that the Master Agreement be utilized and identically interpreted both within a federal agency and among federal agencies.⁷ For example, one commenter noted that in the Bureau of Indian Affairs ("BIA"), application requirements vary from office to office and individual to individual.⁸
 - Contract negotiations are a lengthy and open-ended process:
 - In the Southwest, new leases to locate on lands belonging to BLM, the United States Forest Service ("USFS"), or NPS take 2 to 3 years to negotiate and 12-18 months to renew.⁹
 - Efforts to negotiate a permit for a site on USFS land in Virginia, adjacent to an interstate highway and next to a high-voltage tower, were still pending after nine years and multiple applications.¹⁰

⁷ American Tower Reply Comments at 9.

⁸ Sacred Wind Telecommunications Reply Comments at 5.

⁹ Verizon Wireless Comments at 14-15.

¹⁰ *Id.* at 15.

- Factors which make federal siting less desirable to private infrastructure providers:
 - Overly specific permitting requirements at the BLM and the BIA discourage utilization of federal lands.¹¹
 - Private infrastructure providers shy away from federal siting due to unique expenses and elongated review timelines:
 - The infrastructure provider typically must:
 - conduct lease rental appraisals at a cost of \$15-\$20K;
 - conduct a Joint Spectrum Study, which adds 6-8 months onto the timeline and costs between \$25-45K; and
 - in some areas of the United States (*e.g.*, the West), submit onerous scopes of work, which add another \$45-\$95K to the process.
 - Attempts to site on military land in some regions require studies taking six months to a year to complete, as well as above-market rents.¹² Further, in the Northwest Region of the US, time frames are measured in years, not months.
 - Siting approval on a military installation for a new tower is three to four years and for a collocation would take approximately two years. This is significantly longer than siting takes in the private sector.
 - Once siting approval is obtained, the final lease cannot be issued until it is published in the Federal Register, a process that adds 120 days to the timeline.
 - An application to bring wireline broadband service to residents in the vicinity of USFS land in California remained pending for over seven years, and USFS failed to respond to the applicant's requests for a meeting.¹³

¹¹ American Tower Reply Comments at 10; Sacred Wind Telecommunications Reply Comments at 6. But another commenter singled out BLM for praise for its processing of applications for wireline rights of way and work permits in days or weeks. *See* comments of American Cable Association Reply Comments at 9.

¹² Verizon Wireless Comments at 15.

¹³ American Cable Association Reply Comments at 8.

- Additional delay occurs due to jurisdictional uncertainties:
 - When dealing with multiple federal agencies on a given site, applicants typically experience delay, as it is often unclear which agency is the lead agency.¹⁴
 - There is a lack of uniformity as to whether facilities sited on federal lands are subject to state or local permitting.¹⁵ This creates uncertainties that prevent infrastructure providers from establishing a uniform timeline for completion of the project.
 - Access to federal land is often difficult due to credentialing issues.¹⁶

Potential Solutions

- Create a standardized and repeatable process that contains concrete timelines for action.
- With infrastructure providers' input, create a streamlined process that simultaneously protects government interests while providing a process that makes federal siting more competitive with siting on private land.
- Within each agency, identify a core group of experts who would be charged with fulfilling the agency's role in the process.
- Identify a point of contact (*e.g.*, a federal siting ombudsman) that an infrastructure provider could approach to begin the siting process or help expedite the process if it bogs down.
- Establish clear lines of demarcation between agencies so that it is clear which agency will be the lead agency.

By working together, industry and the federal agencies can share concerns and address head on the issues that keep federal siting a solution of last resort. Just as corporations conduct user-group based focus sessions to identify how their services can be improved, federal agencies could benefit from listening to their 'user group'-infrastructure providers who have attempted to site or collocate on federal lands and buildings.

This sort of cooperation is already underway in the US Ignite Initiative,¹⁷ which seeks to create a public and private partnership that capitalizes on the promise

¹⁴ American Tower Reply Comments at 9.

¹⁵ *Id.* at 10.

¹⁶ *Id.*

¹⁷ See Executive Office of the President, *Fact Sheet: Bolstering High-Speed Broadband to Boost the Economy*,

of ultrafast broadband networks to develop next generation Internet applications. The US Ignite Partnership will bring together industry, foundations, and community partners and resources.

Given the importance of bringing broadband to the entire country as rapidly as possible, CTIA believes it is improve the federal siting process can be meaningfully improved.

Pursuant to Section 1.1206 of the Commission's Rules, this letter is being electronically filed with your office. If you have any questions regarding this submission, please contact the undersigned.

Sincerely,

/s/ Brian M. Josef

Brian M. Josef

cc: Don Johnson
Dan Abeyta